73. (*1*) In case any damage or mischief is done to any wharf, dock, quay, jetty, stage, pier or work constructed or acquired by the Board under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the Board, any Magistrate of the first class having jurisdiction at Aden may, on the application of the Board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief. Compensation for damage to property of Board may be awarded by Magistrate after enquiry.

(*2*) If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Board out of the proceeds of distress:

(*3*) Provided that, if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service, or to the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section, [1] [unless such damage or mischief is in no way attributable to the order, act or improper omission of such officer]. Proviso.

74. (*1*) Except as is otherwise provided in sections 71 and 73, all offences against this Act, or against a bye-law made under section 53, shall be cognizable by a Magistrate of any class. Cognizance of offences.

(*2*) All fines and damages recovered from any offender or by any distress under section 73 shall be paid to the Board. Disposal of fines.

75. Prosecutions under this Act may be instituted by the Board, or by any person authorized by them in this behalf, and not otherwise. Prosecutions.

VIII.—Control.

76. The Governor in Council may at any time order a survey and examination of any work of the Board under this Act, or of the site thereof and the cost of such survey or examination shall be borne and paid by the Board. Government may order survey.

[1] These words were added by s. 6 of the Aden Port Trust Act (Amendment) Act, 1895 (Bom. Act I of 1895), *infra*.

Government may carry out neglected works.

77. If the Board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them, or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of the Governor in Council, Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Board.

Governor in Council may prohibit execution of orders, etc., affecting the defensibility of Aden or the security or sanitary condition of the garrison.

78. (*1*) If, in the opinion of the Governor in Council, the execution of any order or resolution of the Board or the doing of anything which is being done, or is about to be done, by or on behalf of the Board, injuriously affects or is likely to affect the defensibility of Aden against Her Majesty's enemies, or the security or sanitary condition of the garrison, he may, by an order in writing, prohibit the execution or doing thereof.

Pending orders of Governor in Council, Political Resident may act.

(2) Pending the receipt of an order by the Governor in Council under this section, the Political Resident at Aden may, by a like order, suspend the execution or doing of anything by or on behalf of the Board which appears to him, for any of the reasons aforesaid, to be open to objection.

In default the Governor in Council may require the Board to increase the rates, etc.,

79. (*1*) If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, the Governor in Council may require the Board, by an order in writing, to increase subject to his sanction and to the provisions of section 40, to such extent and for such period as shall appear necessary, the tolls, rates and charges, or any of them, for the time being in force under the said section.

and, on the Board's failing to do so, may himself increase them.

(2) If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the Bombay Government Gazette, increase the said tolls, rates, charges or any of them and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned and published under section 40.

Governor in Council may revoke powers of Board.

80. (*1*) If at any time the Governor in Council is satisfied that the purposes intended to be accomplished under this Act have not been, and are not likely to be, properly accomplished by the Board, the Governor in Council may, by notification in the Bombay Government Gazette, give notice that, unless within six months the Board take measures to the satisfaction of the Governor in Council for properly accomplishing such purposes, the powers by this Act

conferred on the Board will, at the end of such period, be withdrawn and revoked.

(2) On the expiration of the period aforesaid, the Governor in Council may, if no such measures to his satisfaction have been taken by the Board, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Board shall thereupon vest in Government.

IX.—Miscellaneous.

81. [*Saving of previous port regulations*] *Rep. Act XVI of 1895.*

Recovery of dues as fines under the Code of Criminal Procedure.

82. All fees and sums due on account of property for the time being vested in the Board, and all arrears of tolls, charges and rates imposed under this Act, may be recovered, in addition to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the [1] Code of Criminal Procedure, 1882, for the recovery of fines.

X of 1882.

Trustees not personally liable.

83. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the Board; but the funds from time to time in the hands of the Board shall be liable for, and chargeable with, all contracts made in manner provided in this Act.

Trustees liable for breach of trust.

84. Every trustee shall be liable for any misapplication of money entrusted to the Board to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Limitation of suits.

85. (*1*) No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit.

Effect of tender of amends in suit for damages.

(*2*) And in the case of a suit for damages, if tender of sufficient amends shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Board not responsible for certain acts of their officers and servants.

86. (*1*) The Board shall not be responsible for any misfeasance, malfeasance or nonfeasance of any officer or servant appointed under this Act;

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[1] *See* now the Criminal Procedure Code, 1898 (5 of 1898), General Acts, Vol. V.